

IC 36-12-11

Chapter 11. Library Certification Board

IC 36-12-11-1

Application of chapter

Sec. 1. This chapter applies to both Class 1 and Class 2 libraries.
As added by P.L.1-2005, SEC.49.

IC 36-12-11-2

"Board"

Sec. 2. As used in this chapter, "board" refers to the Indiana library and historical board established by IC 4-23-7-2.
As added by P.L.1-2005, SEC.49.

IC 36-12-11-3

"Director"

Sec. 3. As used in this chapter, "director" refers to the director of the Indiana state library appointed under IC 4-23-7.1-37.
As added by P.L.1-2005, SEC.49.

IC 36-12-11-4

"Practitioner"

Sec. 4. As used in this chapter, "practitioner" means an individual certified under this chapter.
As added by P.L.1-2005, SEC.49.

IC 36-12-11-5

Powers and duties of board

Sec. 5. The board shall do the following:

- (1) Prescribe and define grades of public library service and prescribe the qualifications that individuals must possess who are employed in each of the grades of public library service, giving due consideration to the population served and the income and salary schedule of each library.
- (2) Make available the requirements for certification of all grades upon request and without charge to all prospective applicants.
- (3) Issue certificates to candidates who apply for certificates and who, by reason of their academic or technical training and experience, are found to be suitable individuals to certify.
- (4) Prescribe and define the qualifications of a library director, a head of a department or branch, or a professional assistant of a public library.
- (5) Adopt rules under IC 4-22-2 that the board determines are necessary to administer this chapter.

As added by P.L.1-2005, SEC.49.

IC 36-12-11-6

Certification requirements

Sec. 6. All library directors, library department or branch heads,

and professional assistants, except those who are employed at school libraries or libraries of educational institutions, must hold a certificate under section 7 of this chapter.

As added by P.L.1-2005, SEC.49.

IC 36-12-11-7

Public library service; application for certification

Sec. 7. (a) An individual who:

- (1) desires to be certified as a librarian in a designated division, grade, or type of public library service; and
- (2) possesses the qualifications prescribed in the rules of the board as essential to enable an individual to apply for a certificate;

may apply to the board for a certificate in any grade or grades of public library service.

(b) The application must be:

- (1) made on a form prescribed and supplied by the board; and
- (2) accompanied by the fee set by the board under section 11 of this chapter.

(c) If the application is found to be satisfactory, the applicant is entitled to a certificate in the grade or grades of public library service for which the applicant applied.

As added by P.L.1-2005, SEC.49.

IC 36-12-11-8

Private or school library service; application for certification

Sec. 8. (a) An individual who is actively engaged or expects to engage actively in:

- (1) a grade or class of private library service; or
- (2) the library service of a school or another educational institution;

whether the individual is or expects to be a library director, or the head of a department or branch of a private library or of the library of a school or an educational institution, may apply for a certificate of a grade or class.

(b) If an individual is found to be competent and qualified, the individual shall be granted the certificate applied for in the same manner and subject to the same conditions as are provided for the certification of librarians in public libraries under section 7 of this chapter.

As added by P.L.1-2005, SEC.49.

IC 36-12-11-9

Reciprocity with other states

Sec. 9. To prevent unjust and arbitrary exclusions by other states of certified librarians who have complied with the requirements of Indiana law, the board may adopt rules necessary for the reciprocal recognition of certificates for librarians issued by other states whose qualifications for library service are at least as high as the qualifications in Indiana. To effect this section, the board shall

consider the recommendations of the American Library Association.
As added by P.L.1-2005, SEC.49.

IC 36-12-11-10

Library certification account

Sec. 10. All fees collected under this chapter constitute a separate account of the state general fund, known as the library certification account, which shall be used to defray expenses incurred in the administration of this chapter. The balance in this account at the end of any fiscal year does not revert to the state general fund but is carried forward and available for the succeeding fiscal year.

As added by P.L.1-2005, SEC.49.

IC 36-12-11-11

Fees

Sec. 11. (a) The board shall adopt rules under IC 4-22-2 to set fees to be paid by an individual who applies for certification under section 7 of this chapter. If the board has not set a fee by rule for a particular type of application, the fee is one dollar (\$1).

(b) Payment of fees set under this section may be made by any of the following:

- (1) Cash.
- (2) A draft.
- (3) A money order.
- (4) A cashier's check.
- (5) A certified check.
- (6) A personal check.

If an individual pays a fee with an uncertified personal check and the check does not clear the bank, the board may void the certificate for which the check was received.

(c) Unless specified by the rules of the board, a fee is not refundable or transferable.

(d) Fees shall be paid to the library certification account established under section 10 of this chapter.

As added by P.L.1-2005, SEC.49.

IC 36-12-11-12

Attorney general; receipt, investigation, and prosecution of complaints

Sec. 12. The office of the attorney general, under the conditions specified in this chapter, may receive, investigate, and prosecute complaints concerning a practitioner.

As added by P.L.1-2005, SEC.49.

IC 36-12-11-13

Director; investigation of complaints

Sec. 13. The director is responsible for investigation of complaints concerning a practitioner.

As added by P.L.1-2005, SEC.49.

IC 36-12-11-14

Complaints; form; filing

Sec. 14. All complaints concerning a practitioner must be written, signed by the complainant, and initially filed with the director. Except for an employee of the attorney general's office acting in an official capacity, a complaint may be filed by any individual, including a member of the board.

As added by P.L.1-2005, SEC.49.

IC 36-12-11-15

Director; duties and powers

Sec. 15. The director has the following duties and powers:

(1) The director shall make an initial determination as to the merit of a complaint. The director shall submit a copy of a complaint having merit to the board. Except as otherwise provided by this chapter, the board acquires jurisdiction over the complaint upon submission of the complaint to the board by the director.

(2) The director shall notify the practitioner of the nature and ramifications of the complaint and of the duty of the board to attempt to resolve the complaint through negotiation.

(3) The director shall report any pertinent information regarding the status of the complaint to the complainant.

(4) The director may investigate any written complaint against a practitioner. The director shall limit the investigation to areas that appear to be in violation of this chapter or rules adopted under this chapter.

(5) The director may:

(A) subpoena witnesses; or

(B) send for and compel the production of books, records, papers, and documents;

in relation to an investigation under this chapter. The circuit or superior court located in the county where a subpoena is to be issued shall enforce the subpoena.

As added by P.L.1-2005, SEC.49.

IC 36-12-11-16

Notification of complaint; prohibition of investigation or action by director; extension period

Sec. 16. For thirty (30) days after the director has notified the board and the practitioner that a complaint has been filed, the director shall not conduct an investigation or take any action, unless requested by the board. If, during the thirty (30) days, the board requests an extension of the thirty (30) day period, the director shall extend the period for not more than twenty (20) days.

As added by P.L.1-2005, SEC.49.

IC 36-12-11-17

Statement identifying resolution of complaint; no further action by director

Sec. 17. If before the director files a report with the attorney general under section 19 of this chapter, the director receives a statement:

- (1) signed by the practitioner and the complainant; and
- (2) stating that the complaint has been resolved;

the director may not take further action.

As added by P.L.1-2005, SEC.49.

IC 36-12-11-18

Notification by board to director of intention not to proceed; power of director

Sec. 18. If at any time during the thirty (30) day period or an extension period described in section 16 of this chapter the board notifies the director of the board's intention not to proceed further to resolve the complaint, the director may proceed immediately to continue to pursue the complaint under this chapter.

As added by P.L.1-2005, SEC.49.

IC 36-12-11-19

Disciplinary sanctions; report; prosecution

Sec. 19. If there has not been a statement filed under section 17 of this chapter, and if after conducting an investigation the director believes the practitioner should be subject to disciplinary sanctions by the board, the director shall file a report with the attorney general. Upon receiving the director's report, the attorney general may prosecute the matter before the board on behalf of the state.

As added by P.L.1-2005, SEC.49.

IC 36-12-11-20

Attorney general; prosecution

Sec. 20. Notwithstanding section 19 of this chapter, if the board requests, the attorney general shall prosecute the matter before the board on behalf of the state.

As added by P.L.1-2005, SEC.49.

IC 36-12-11-21

Disciplinary proceedings; ultimate authority

Sec. 21. (a) IC 4-21.5 applies to proceedings to discipline a practitioner under this chapter.

(b) The board is the ultimate authority under IC 4-21.5.

As added by P.L.1-2005, SEC.49.

IC 36-12-11-22

Confidentiality of complaint; disclosure of information

Sec. 22. (a) A complaint and information pertaining to the complaint are confidential until the attorney general files notice with the board of intent to prosecute the practitioner.

(b) Unless required to do so under law or in furtherance of an investigation, an individual employed by the office of the attorney general, the board, or the director may not disclose or further the

disclosure of information concerning a complaint.
As added by P.L.1-2005, SEC.49.

IC 36-12-11-23

Disciplinary actions; conditions

Sec. 23. A practitioner may be disciplined under section 26 of this chapter if after a hearing the board finds any of the following:

- (1) The practitioner has:
 - (A) employed or knowingly cooperated in fraud or material deception in order to obtain a certificate issued under this chapter;
 - (B) engaged in fraud or material deception in the course of professional services or activities; or
 - (C) advertised services in a false or misleading manner.
- (2) The practitioner has been convicted of a crime that has a direct bearing on the practitioner's ability to practice competently.
- (3) The practitioner has knowingly violated a rule adopted by the board.
- (4) The practitioner has continued to practice although the practitioner has become unfit to practice due to:
 - (A) professional incompetence;
 - (B) failure to keep abreast of current professional theory or practice;
 - (C) physical or mental disability; or
 - (D) addiction or severe dependency upon alcohol or other drugs that endangers the public by impairing a practitioner's ability to practice safely.
- (5) The practitioner has engaged in a course of lewd or immoral conduct in connection with the practitioner's practice.

As added by P.L.1-2005, SEC.49.

IC 36-12-11-24

Physical and mental examination

Sec. 24. The board may order a practitioner to submit to a reasonable physical or mental examination if the practitioner's physical or mental capacity to practice safely is at issue in a disciplinary proceeding.

As added by P.L.1-2005, SEC.49.

IC 36-12-11-25

Failure to comply with order to submit to physical or mental examination; suspension

Sec. 25. Failure of a practitioner to comply with a board order to submit to a physical or mental examination renders the practitioner liable to the summary suspension procedures under section 27 of this chapter.

As added by P.L.1-2005, SEC.49.

IC 36-12-11-26

Sanctions

Sec. 26. The board may impose any of the following sanctions, singly or in combination, if the board finds a practitioner has committed an offense under section 23 of this chapter:

- (1) Permanently revoke the practitioner's certificate.
- (2) Suspend the practitioner's certificate.
- (3) Censure the practitioner.
- (4) Issue a letter of reprimand.
- (5) Place the practitioner on probation status and require the practitioner to:
 - (A) report regularly to the board upon the matters that are the basis of the probation;
 - (B) limit practice to those areas prescribed by the board; or
 - (C) continue or renew professional education under a practitioner approved by the board until a satisfactory degree of skill has been attained in those areas that are the basis of the probation.

The board may withdraw the probation if the board finds that the deficiency that required disciplinary action has been remedied.

As added by P.L.1-2005, SEC.49.

IC 36-12-11-27**Suspension of certificate; renewal**

Sec. 27. The board may summarily suspend a practitioner's certificate for ninety (90) days in advance of final adjudication or during the appeals process if the board finds that the practitioner represents a clear and immediate danger to the public health and safety if the practitioner is allowed to continue to practice. The summary suspension may be renewed upon a hearing before the board, and each renewal may be for ninety (90) days or less.

As added by P.L.1-2005, SEC.49.

IC 36-12-11-28**Reinstatement of certificate**

Sec. 28. The board may reinstate a certificate that has been suspended under this chapter if after a hearing the board is satisfied that the applicant is able to practice with reasonable skill and safety. As a condition of reinstatement, the board may impose disciplinary or corrective measures authorized under this chapter.

As added by P.L.1-2005, SEC.49.

IC 36-12-11-29**Consistency in application of sanctions; reliance on precedent**

Sec. 29. The board shall seek to achieve consistency in the application of sanctions authorized in this chapter, and significant departures from prior decisions involving similar conduct shall be explained in the board's findings or orders.

As added by P.L.1-2005, SEC.49.